

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE**

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| IN RE: REALPAGE, INC. RENTAL SOFTWARE ANTITRUST LITIGATION (NO. II) | Case No.: 3:23-md-03071 MDL No. 3071 |
| | This document relates to: ALL ACTIONS |

**RESPONSE TO MORGAN PLAINTIFFS' APPLICATION FOR INTERIM CO-LEAD
COUNSEL FOR THE MULTIFAMILY PLAINTIFF CLASS**

The Watters Plaintiffs respectfully submit this brief response to address two points raised by the Morgan Plaintiffs' application that they believe warrant clarification:

First, the Morgan Plaintiffs' suggestion that the Watters Plaintiffs have "abandon[ed]" (or would abandon) the claims of certain renters by failing to "plead a nationwide class" is incorrect. *See* ECF No. 258, at pp. 5 & 12-13. As the Watters Plaintiffs have made clear in their application, they intend to plead both a *per se* antitrust violation on behalf of a nationwide class, and claims under the rule of reason, in the alternative, on behalf of regional subclasses. ECF No. 257, 13-14. This approach safeguards class members' interests by providing the flexibility needed to adjust their claims and the class definition to conform to the facts revealed in discovery. If anything, this approach enhances the chance of recovery; it does not abandon any claims.

Second, where, as here, the genesis of this MDL's initial complaints is public information—namely *Pro-Publica*'s October 15, 2022 article—which Plaintiff group filed the first complaint should be given little weight. Rather, the more important factor under Rule 23(g) is the work performed by applicants on behalf of the class. Judged against this rubric, Scott & RK's *Goldman* complaint demonstrates this and presents this MDL's strongest claims and gives the classes the best chance of success.

Dated: June 8, 2023

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CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2023, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

/s/ Tricia R. Herzfeld

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